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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,205	08/23/2001	Frederick A. Myers	1606001/0482494(511)	1187

7590 07/29/2003  
FROST BROWN TODD LLC  
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201 E. Fifth Street  
Cincinnati, OH 45202-4182

EXAMINER

OLTMANS, ANDREW L

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 07/29/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-10

**Office Action Summary**

Application No.

09/938,205

Applicant(s)

MYERS ET AL.

Examiner

Andrew L. Oltmans

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2003.
- 2a) ☐ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 9-12, 17-22, 24-28, 30-52, 56-64 and 66-71 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 8, 13-16, 23, 29, 53-55 and 65 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other:

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on May 9, 2003 has been entered.

### ***Note Regarding IDS filed May 9, 2003***

2. In view of the IDS filed May 9, 2003, a rejection under 35 USC 102 (b) has been made. Accordingly, this Office Action is NON-FINAL.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Japanese Patent JP 08-325482 A Nippon Paint Co.***

NOTE: The references to JP '482 are to either the English Language abstract or the English Language translation provided by the examiner.

4. Claims 1-4, 7, 9-12, 17-22, 24-28, 30-52, 56-64, 66-67 and 69-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent JP 08-325482 A Nippon Paint Co. (JP '482; cited on IDS filed May 9, 2003).

JP '482 teaches a method of producing a antimicrobial polymer coated metal sheet, wherein the method includes the steps of providing a metal sheet, including a metal strip (claim 3), wherein the metal includes Fe (carbon steel), Zn, Al, and galvanized steel, as recited in claims 1, 2, 4, 7, 9-11, 66 and 69-71 (paragraph [0023]-[0026]), cleaning the surface of the substrate, as recited in claims 1, 12 and 17-18 (paragraph [0020]), pretreating the substrate to promote adhesion by applying a zinc phosphate conversion coating, as recited in claims 1, 19-22, 24-28 and 30-33 (paragraph [0024]), applying the polymer coating by rolling, as recited in claims 1 and 61-63 (paragraph [0020]), wherein the antibiotic powder wt% is in the claimed range, as recited in claim 1 (paragraph [0012]), wherein the core particle includes a particle including the claimed zeolite and the antibiotic metal, zinc, copper, lithium and silver, as recited in claims 1 and 34-52 (paragraphs [0008], [0007], and [00026]), wherein the coated substrate is subjected to a final treatment (i.e. drying) to at least partially harden the coating, as recited in claims 1, 64 and 68 (paragraph [0012] and [0021]). JP '482 teaches that additional ingredient may be added to the polymer composition, as recited in claim 60 (paragraph [0016]). The claims do not distinguish over the teachings of JP '482.

*Allowable Subject Matter*

5. Claims 5-6, 8, 13-16, 23, 29, 53-55 and 65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

- a. A primary reason for the allowance of claims 5-6 and 8, under the above conditions, is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed base metals.
- b. A primary reason for the allowance of claims 13-16, under the above conditions, is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed alkaline cleaning with the claimed alkaline solution.
- c. A primary reason for the allowance of claims 23 and 29, under the above conditions, is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed additives to the phosphating composition.
- d. A primary reason for the allowance of claims 53-55, under the above conditions, is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed second coating on the anti-microbial powder.
- e. A primary reason for the allowance of claim 65, under the above conditions, is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed deoxidizing step.

*Conclusion*

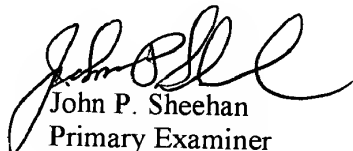
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew L. Oltmans whose telephone number is 703-308-2594. The examiner can normally be reached 7:00-3:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 703-308-1146. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

*ALO*  
ALO

July 21, 2003

  
John P. Sheehan  
Primary Examiner  
Art Unit 1742